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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 JAMES PAUL PITTMAN,

11 Defendant.

Case No. CR08-409RSL

ORDER DENYING MOTION
TO MODIFY CONDITIONS
OF SUPERVISED RELEASE

12 This matter comes before the Court on Defendant's "Motion to Modify
13 Conditions of Supervised Release" (Dkt. # 153). Defendant asks the Court to modify
14 the terms of his supervised release to reduce the amount of the restitution payments he is
15 required to make each month and to preclude United States Probation from requiring
16 him to pay a portion of his personal traveling expenses¹ toward his outstanding
17 restitution obligation. He also asks the Court to direct United States Probation to correct
18 his criminal record. The Court DENIES the motion.

19 First, Defendant's contention that United States Probation is acting in a manner
20 inconsistent with this Court's Order of Judgment by requiring Defendant to make
21 payment equal to 10% of his gross monthly household income, Dkt. # 153, is frivolous.
22 When it imposed judgment, the Court ordered Defendant to immediately pay restitution
23 in the amount of \$77,918.33. Dkt. # 144 at 4. It further provided that "any unpaid

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25 ¹ Defendant claims that he is being required to pay for both his business and personal
travel. His own attachments refute that assertion, however. Dkt. # 152-7 at 1.

1 amount is to be paid during the period of supervision in monthly installments of not less
2 than 10% of his or her gross monthly household income.” Id. (emphasis added).

3 Second, this calculation method does not, as Defendant contends, require other
4 members of his household to “pay on [his] restitution.” Dkt. # 152-2 at ¶ 3. Neither
5 does it “impos[e] a sentence [on] any other party” or amount to “harassment,”
6 “coercion,” or “extortion.” Id. at ¶¶ 3, 4, 15, 17. The ultimate payment obligation
7 remains solely on the Defendant. No one else is under any obligation to pay anything
8 toward the amount that Defendant owes.

9 Third, the Court finds United States Probation’s policy of requiring additional
10 payments “equal to the cost of [Defendant’s] travel” to be wholly appropriate. Again,
11 the Court ordered Defendant to pay \$77,918.33 in restitution. Dkt. # 144 at 4. Because
12 he could not immediately pay that amount, the Court ordered him to pay no less than
13 10% of his monthly household income each month toward that outstanding debt. Id. To
14 be clear though, this payment schedule represents the “minimum amount that the
15 defendant is expected to pay.” Id. at 6. As the Court ordered, “defendant shall pay
16 more . . . whenever possible.” Id. And the fact that Defendant has sufficient income to
17 travel demonstrates that “more” is in fact possible.

18 Finally, the Court finds that United States Probation has not failed to correct
19 Defendant’s record as he contends. The proper procedure for correcting an allegedly
20 incorrect record is set forth at 28 C.F.R. § 16.34. For Defendant’s benefit, it provides:

21 If, after reviewing his/her identification record, the subject thereof
22 believes that it is incorrect or incomplete in any respect and wishes
23 changes, corrections or updating of the alleged deficiency, he/she
24 should make application directly to the agency which contributed the
25 questioned information. The subject of a record may also direct
his/her challenge as to the accuracy or completeness of any entry on
his/her record to the FBI, Criminal Justice Information Services
(CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road,
Clarksburg, WV 26306. The FBI will then forward the challenge to
the agency which submitted the data requesting that agency to verify

1 or correct the challenged entry. Upon the receipt of an official
2 communication directly from the agency which contributed the
3 original information, the FBI CJIS Division will make any changes
4 necessary in accordance with the information supplied by that
5 agency.

6 § 16.34 (emphasis added). Defendant may seek this Court's intervention only once he
7 has availed himself of this process.

8 For all of the foregoing reasons, Defendant's motion is DENIED.

9 DATED this 29th day of May, 2012.

10 *Robert S. Lasnik*

11 Robert S. Lasnik
12 United States District Judge